

UNITED STATES DISTRICT COURT
DISTRICT OF MASSACHUSETTS

UNITED STATES OF AMERICA)
v.)
KENNETH BRISSETTE and)
TIMOTHY SULLIVAN)
Case No. 16-cr-10137-LTS
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)

DEFENDANTS' RENEWED MOTION TO DISMISS

Pursuant to Federal Rule of Criminal Procedure 12(b)(3) and the Fifth and Sixth Amendments to the U.S. Constitution, defendants Kenneth Brissette (“Brissette”) and Timothy Sullivan (“Sullivan”) (collectively, “defendants”) renew their prior motions to dismiss the Second Superseding Indictment that was returned in the above-captioned case on November 29, 2017 (“Second Superseding Indictment”) (dkt # 143) for failure to state an offense.

In support of this Motion, the defendants state that the First Circuit's recent decision in *United States v. Burhoe*, 871 F.3d 1 (1st Cir. 2017) makes clear that the Second Superseding Indictment fails to allege a viable Hobbs Act case and that, as more fully set out in the accompanying Memorandum in Support of this Motion, the Second Superseding Indictment fails as a matter of law.

REQUEST FOR ORAL ARGUMENT

The defendants request that the Court hear oral argument on this Motion.

CERTIFICATE OF COMPLIANCE WITH LOCAL RULE 7.1(a)(2)

Undersigned counsel hereby certifies that the parties have conferred in an effort to narrow the issues raised by this motion.

Respectfully submitted,

KENNETH BRISSETTE,
By his attorneys,

/s/ William H. Kettlewell

/s/ Sara E. Silva

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Dated: December 18, 2017

CERTIFICATE OF SERVICE

I hereby certify that this document filed through the ECF system will be sent electronically to the registered participants as identified on the Notice of Electronic Filing (NEF) and paper copies will be sent to those indicated as nonregistered participants on December 18, 2017.

/s/ William H. Kettlewell